Supreme Court of Illinois

December 3, 2015

ILLINOIS SUPREME COURT ADOPTS RULE TO PREVENT DISCLOSURE OF PRIVATE INFORMATION IN DOCUMENTS

The Illinois Supreme Court has adopted a new rule to protect against identity theft and the disclosure of personal information in cases before the state's reviewing courts.

During its November Term, the Supreme Court approved Rule 364. It will take effect July 1, 2016, and affect all documents and exhibits filed by paper or electronically in criminal and civil cases before the Illinois Appellate and Supreme courts.

The new rule aims to protect the privacy of persons whose information is included in court documents and lays out mechanisms for the redaction and confidential filing of personal identifiers. It also is designed to provide continuity for practitioners as a similar rule is already in place for civil cases in Illinois trial courts.

"This new rule protects the privacy of parties, witnesses, and others involved in cases before the Illinois Supreme Court and the appellate court while ensuring that necessary personal information is available to those with a legitimate reason to access it," Chief Justice Rita B. Garman said. "Merely because a person has business before the court, or has been involved as a witness or party in a civil or criminal proceeding, that person should not have to forfeit his or her privacy."

Under Rule 364, personal identifiers are defined as the following: Social Security and individual taxpayer-identification numbers, driver's license and state identification card numbers, financial account numbers, debit and credit card numbers, and the name of juveniles and recipients of mental health services involved in proceedings referenced in Rule 341(f).

Proceedings referenced in that rule include the Juvenile Court Act, Adoption Act, Mental Health and Developmental Disabilities Code, Mental Health and Developmental Disabilities Confidentiality Act, and actions to collect fees for mental health services.

The new rule does, however, allow documents containing personal identifiers to be filed if the letter "x" is used in the place of each omitted digital or character, and only the last four digits of the personal identifier are included (i.e, xxx-xx-1234). In appeals involving a juvenile or recipient of mental health services, the individual's first name and last initial can be used in most situations.

If a document or exhibit containing personal identifiers is filed, the rule permits a party or person whose information has been included to file a motion under seal pursuant to Rule 361 requesting the court to order the redaction of the information or the proper designation of an individual's name.

When the filing of personal identifiers is required by law, ordered by the court, or otherwise necessary to dispose of a matter, the new rule requires the party filing the document to file a form providing notice that confidential information is included in the court document.

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The notice and any attachments will be filed under seal by the clerk and remain under seal unless the court orders otherwise. A template of the "Notice of Confidential Information within Court Filing" is included in the new rule.

Rule 364 is modeled after Rule 138, which the Supreme Court adopted in 2012 to prevent the disclosure of personal identifiers in civil cases in Illinois trial courts. The new rule ensures the same protection is provided to parties and persons in civil and criminal cases before the Appellate and Supreme courts.

The Supreme Court also amended Rule 612 to make the new requirements under Rule 364 applicable in criminal appeals before the courts of review.

The language of Rule 364 and all of the Supreme Court rules can be found on the Court's website at http://www.illinoiscourts.gov/SupremeCourt/Rules.

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